

1 THE HONORABLE JOHN C. COUGHENOUR

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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

9 UNITED STATES OF AMERICA,

CASE NO. CR18-0204-JCC

10 Plaintiff,

ORDER

11 v.

12 JOAQUIN DOMINGUEZ,

13 Defendant.
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15 This matter comes before the Court on Defendant's request at sentencing for a variance in
16 his total offense level and departure in his criminal history category (Dkt. No. 42). The Probation
17 Department has calculated a total offense level of 11 and a criminal history category of III,
18 which gives a guideline range of 18–24 months. (Dkt. No. 32.)¹ These calculations are heavily
19 influenced by a felony conviction that Defendant received in Texas when he was 17. (*Id.*) In June
20 2005, Defendant was convicted of possession of a controlled substance for possessing
21 approximately 1 gram of cocaine. (*Id.*) As a felony, that conviction results in a 4-level upward
22 adjustment to Defendant's total offense level. USSG § 2L1.2(b)(2)(D). The conviction also adds
23 three points to Defendant's criminal history category. USSG §§ 4A1.1(a), 4A1.2(k).

24 Defendant argues that his prior felony conviction is disproportionately punishing him at
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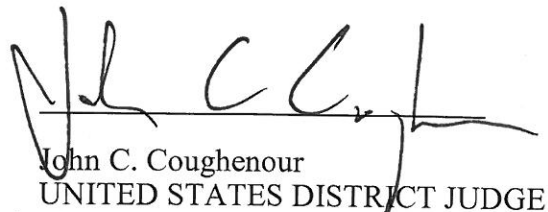
26 ¹ These calculations take into consideration this District's two-level "fast track"
departure. USSG § 5K3.1.

1 sentencing. The Court agrees. Defendant was only 17-years-old at the time of his drug
2 conviction—an age that in many states would not allowed him to have been prosecuted as an
3 adult for simply possessing a controlled substance. In addition, Defendant possessed only a
4 minimal amount of drugs—an amount that in other jurisdictions would not have sustained a
5 felony conviction. Not only did Defendant end up doing significant jail time for that felony
6 conviction, but he also lost his ability to remain in the United States.

7 For those reasons, the Court concludes that Defendant's prior felony conviction results in
8 an unfair and disproportionate increase in his total offense level and criminal history category.
9 Therefore, the Court GRANTS a variance of Defendant's total offense level from 11 to 8, and a
10 downward departure of Defendant's criminal history points from 8 to 5. This gives a guidelines
11 range of 6 to 12 months.

12 DATED this 21 day of May 2019.

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John C. Coughenour
UNITED STATES DISTRICT JUDGE